

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to employee background checks**

The Department of Human Services hereby amends Chapter 119, “Record Check Evaluations for Certain Employers and Educational Training Programs,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 217.6 and 2017 Iowa Acts, House File 547.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 217.6 and 2017 Iowa Acts, House File 547.

*Purpose and Summary*

This amendment adds a new element to the definition of “requesting entity.” The change is required in relation to federal legislation requiring background checks on any employee with access to federal tax information used for Department purposes.

The Department may conduct background checks and subsequently conduct evaluations on employees who have access to federal tax information pursuant to Iowa Code section 217.45. The record check evaluation unit will complete the evaluations upon an employee’s hire and again every ten years. The Department will defer to the employee handbook for requirements related to reporting allegations of an employee’s being a perpetrator of abuse or an employee’s alleged criminal charges between the initial date of hire and the ten-year background check.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3515C**. No public comments were received. One change from the Notice has been made to update the cross reference in paragraph “10” of the definition of “requesting entity.”

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on February 14, 2018.

*Fiscal Impact*

This rule making has a fiscal impact to the state of Iowa of less than \$100,000 annually or \$500,000 over five years. The Department estimates state costs of \$60,077 in state fiscal year (SFY) 2018 and \$22,806 in SFY 2019. Costs are higher in the first year due to the initial checks for all current employees. These costs include FBI checks, in-state and out-of-state background checks, and fingerprinting for approximately 1,500 employees. Employees will undergo a background investigation at least once every ten years thereafter. The projections do not include administrative needs associated with background investigations as current staff will fulfill those needs.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making will become effective on April 18, 2018.

The following rule-making action is adopted:

Amend rule **441—119.1(135B,135C)**, definition of “Requesting entity,” as follows:

“*Requesting entity*” means an entity covered by these rules that is requesting an evaluation to determine if the person being evaluated can be employed by the entity or participate in an educational training program and includes the following:

1. Health care facilities as defined in Iowa Code section 135C.1.
2. Programs in which the provider is regulated by the state or receives any state or federal funding and the employee being evaluated provides direct services to consumers including but not limited to programs that employ homemakers or home health aides, programs that provide adult day services, hospices, federal home- and community-based services waiver providers, elder group homes, and assisted living programs.
3. Substance abuse programs for juveniles as described in Iowa Code section 125.14A.
4. Hospitals as defined in Iowa Code section 135B.1.
5. Psychiatric medical institutions for children as defined in Iowa Code section 135H.1.
6. The department as described in Iowa Code section 217.44.
7. Department institutions as defined in Iowa Code section 218.13.
8. Child foster care facilities as defined in Iowa Code section 237.1.
9. Medicaid home- and community-based services waiver providers as defined in Iowa Code section 249A.29.
10. Certified nurse aide training programs as defined in Iowa Code section ~~135C.33(8)~~ 135C.33(9).
11. Nursing training programs as described in Iowa Code chapter 152.
12. The department as described in Iowa Code section 217.45.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/14/18.